

OFFICE OF POLICY AND LEGAL ANALYSIS

**Date:** March 30, 2022  
**To:** Veterans and Legal Affairs Committee  
**From:** Janet Stocco, Legislative Analyst  
**LD 2029** **An Act To Enhance the Prevention of and Response to Sexual Assault and Sexual Harassment in the Maine National Guard** (VLA Committee Bill)

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**SUMMARY**

This bill was reported out by the Joint Standing Committee on Veterans and Legal Affairs pursuant to [Resolve 2021, chapter 21, Directing a Review of Crucial Needs and Lapses in Responding to and Preventing Sexual Trauma in the Maine National Guard](#). The resolve required the Adjutant General to report to this committee on the implementation of the recommendations previously made to the committee in [a report dated Feb. 15, 2014](#) regarding whether Maine law provides for the adequate prosecution of sexual assault in the Maine National Guard and treatment for military victims of sexual assault. An electronic copy of the Adjutant General's Feb. 28, 2022 report in response to the resolve is available here: <https://legislature.maine.gov/doc/8301>.

**Part A**

**Independent Review:**

Part A requires the Adjutant General to provide for a thorough review of the manner in which reports of sexual assault are investigated, prosecuted and adjudicated by the Maine National Guard to be performed either by the United States National Guard Bureau, Office of Complex Investigations or by an independent agency experienced in evaluating military sexual violence prevention and response. The Adjutant General shall—"to the greatest extent allowed under state and federal law and in a manner that protects the privacy of victims"—provide the reviewer with access to: (1) Maine National Guard policies, procedures and records related to sexual assault and sexual harassment; (2) The results of climate command surveys and unit risk inventory surveys; and (3) any other materials requested by the body conducting the independent review.

The Adjutant General must submit a copy of the report from the independent review, including recommendations for improving Maine National Guard policies, practices and procedures relating to sexual assault and sexual harassment, to the joint standing committee of the Legislature having jurisdiction over veterans affairs by February 15, 2023. The committee may report out legislation regarding the subject matter of the report to the 131st Legislature in 2023.

*Proposed amendments / Technical issues:*

- Rep. Rielly proposed amending Part A to direct the Office of the Attorney General to conduct the independent review and, as part of its report, to recommend whether the State should request that the National Guard Bureau, Office of Complex Investigations, conduct a further review.
- The Adjutant General testified that command climate surveys are confidential under federal law.
- The first sentence of this section, calling for the independent review, should probably be amended to encompass a review of both sexual assault *and sexual harassment* policies and procedures.

**Part B**

**Recognition of National Guard Commanding Officers' Orders to Cease Harassment:**

Sections B-2 to B-5 of the bill amend [17-A M.R.S. §506-A](#) (attached), which establishes the crime of "harassment," to provide that a person is guilty of harassment if the person engages in any course of conduct with the intent to harass, torment or threaten another person and during the previous year the person, while a member

of the Maine National Guard, was notified, in writing or otherwise, not to engage in such conduct by a commanding officer, regardless of whether the person remains a member of the National Guard when the conduct occurs and regardless of where the conduct occurs. Harassment is generally a Class E crime punishable by up to 6 months of imprisonment and a \$1,000 fine, except that, if the defendant has 2 or more prior convictions for harassment against the same victim or a member of that victim's immediate family, harassment is a Class C crime punishable by up to 5 years of imprisonment and a \$5,000 fine.

*Proposed amendments / Technical Issues:*

- It is my understanding that these provisions of the bill are intended give a National Guard commanding officer's cease-harassment notice the same legal effect as a law enforcement officer's cease-harassment notice. However, there is at least one way that the notices will differ if the bill is enacted:

If a victim of harassment seeks to obtain a protection from harassment order in court, under [5 M.R.S. §4653\(1\)\(B\)](#), the victim's complaint must allege: (1) the defendant committed a single act or course of conduct that constitutes one of the crimes in [5 M.R.S. §4651\(2\)\(C\)](#); (2) the defendant engaged in domestic violence, violence against a dating partner, sexual assault, stalking or the crime of harassment; or (3) the defendant received a notice to stop harassing the victim from law enforcement or the plaintiff has good cause to explain why such a law enforcement order was not sought. Although the complaint must contain one of these allegations, the type of harassment that may form the basis for a court's protection from harassment order includes 3 or more acts of intimidation, confrontation, physical force or the threat of physical force—*i.e.*, conduct that does not rise to the level of the crimes in options 1 or 2.

When a court issues a protection from harassment order, under [5 M.R.S. §4655](#) it may order the defendant not only to cease harassing and not have any direct or indirect contact with the plaintiff but also not to: go on the property of the victim's residence; interfere with or destroy the victim's property; follow the victim without reasonable cause; or be in the vicinity of the plaintiff's home, school or place of employment without reasonable cause. The court may also order the defendant to pay monetary compensation and the plaintiff's court costs and reasonable attorney's fees. Violation of the nonmonetary portions of the court's order is a class D crime under [5 M.R.S. §4659\(1\)](#).

*Does the committee wish to amend 5 M.R.S. §4653(1)(B) to provide that a commanding officer's order to stop harassing the victim similarly allows the victim to file a protection from harassment complaint?*

**Maine Commission on Domestic and Sexual Abuse:**

Sections B-6 to B-8 of the bill amend [19-A M.R.S. §4013](#) (attached) to add to a member of the Maine National Guard with experience in sexual assault response to the Maine Commission on Domestic and Sexual Abuse.

*Proposed amendments / Technical Issues:*

- Rep. Rielly proposed amending the bill to provide that the new member of the Maine Commission on Domestic and Sexual Abuse be appointed by the Governor, not the Adjutant General.
- Lucia Hunt, the commission's chair, agreed and suggested that the committee also amending the bill to:
  - Not increase the number of members of this 36-member commission (see highlighted sections of the attached statute, which are areas of the statute that could be amended to accomplish this goal); and
  - Change the description of the new member from "a representative of the National Guard" to "a member of the military community" with experience in sexual assault response.

**Funding to attend court and administrative proceedings:**

Section B-9 of the bill requires the Adjutant General to provide current and former members of the Maine National Guard who were victims of sexual assault or sexual harassment while members of the Maine National Guard with financial assistance to cover the expenses of traveling to and from and participating in the following proceedings related to the sexual assault or sexual harassment: (1) state court criminal proceedings; (2) state court civil proceedings or (3) proceedings under the Maine Code of Military Justice.

*Proposed amendments / Technical Issues:*

- The Adjutant General requested the language be clarified “to reflect that the funds are for reimbursements related to military administrative processes, or Maine Code of Military Justice proceedings.”

**Cooperative Agreement:**

Section B-10 of the bill requires the Adjutant General to enter into a cooperative agreement with a statewide coalition against sexual assault that includes provisions requiring:

The coalition to provide to members of the Maine National Guard (1) advocacy and support services for victims of sexual assault or sexual harassment and (2) a method for making anonymous reports to the Adjutant General of sexual assault or sexual harassment within the Maine National Guard; and

The Adjutant General to provide to the coalition (1) information on the unique needs of victims of sexual assault who are members of the National Guard and (2) “to the greatest extent allowed under state and federal law and in a manner that protects the privacy of victims,” access to (a) Maine National Guard policies, procedures and records related to sexual assault and sexual harassment; (b) the results of climate command surveys and unit risk inventory surveys; and (c) any other materials requested by the coalition.

*Proposed Amendments / Technical Issues:*

- Rep. Rielly proposed amending Section B-10: (1) to clarify that the information provided by the Adjutant General to the coalition on the “unique needs of victims of sexual assault who are members of the National Guard” discuss the challenges faced by survivors who are members of the National Guard generally, and not related to specific individuals; (2) replace the requirement in the bill that the coalition be requested to provide an annual report to the VLA Committee with a requirement that the Adjutant General include within the annual report in Section B-11 of the bill the coalition’s recommendations for improving the National Guard’s prevention of and response to sexual assault and sexual harassment.
- The Adjutant General testified (1) that command climate surveys are confidential under federal law and (2) that data shared with the coalition must be summarized to protect victim confidentiality.
- Kartika Wright, former SARC, proposed (1) eliminating the sharing of sexual assault and sexual harassment reports with the coalition, given the importance of victim confidentiality and (2) not sharing the results of climate surveys and unit risk inventories with the coalition, because the surveys involve many topics, not just sexual violence; it may be difficult for a civilian organization to craft recommendations from this information; and sharing of these survey results may be prohibited.

**Advisory Council on Sexual Trauma in the Maine National Guard:**

Sections B-1 and B-12 of the bill require the Governor, in consultation with the Adjutant General, to convene the Advisory Council on Sexual Trauma in the Maine National Guard (see table of the advisory council’s membership and duties below). Section B-11 of the bill requires the Adjutant General to include a summary of the advisory council’s activities in an annual report to the VLA Committee.

*Proposed Amendments / Technical Issues:*

- Rep. Rielly proposed amending Section B-12 to: (1) require the Governor to convene the advisory council without needing to consult with the Adjutant General; (2) eliminate a duplicative member of the advisory council; and (3) require that both individuals who are survivors of sexual assault or sexual harassment within the National Guard and representatives of an organization of survivors of sexual assault or sexual harassment within the National Guard be included in the advisory council.
- Kartika Wright, former SARC, requested that the bill include more details regarding: (1) how survivors will be identified and invited to participate; (2) how long members remain on the council; and (3) how often the council must meet. She also noted that MECASA has already compiled a directory of resources

for victims/survivors of sexual violence, suggesting that the advisory council should update this directory with military-specific resources rather than re-creating the wheel.

- Committee members observed that the Governor recently issued an [Executive Order](#)<sup>1</sup> establishing the Advisory Council on Military Sexual Trauma. Committee members proposed either amending the bill to more closely track the advisory council established by the Executive Order or eliminating the advisory council from the bill and instead relying on the Executive Order to establish the advisory council.

	LD 2029 (with proposed amendment)	Executive Order 1 FY21/22
Name	Advisory Council on Sexual Trauma in the Maine National Guard	Advisory Council on Military Sexual Trauma
Members	<p><b>No specific number of Governor appointees:</b></p> <ul style="list-style-type: none"> <li>• Representative of Maine Army National Guard;</li> <li>• Representative of Maine Air National Guard;</li> <li>• Representative of Maine Bureau of Veterans' Services;</li> <li>• District Attorney with experience prosecuting sexual assault cases;</li> <li>• Representative of statewide coalition for prevention of sexual assault or sexual harassment;</li> <li>• Survivor(s) of sexual assault or sexual harassment in the Maine National Guard; and</li> <li>• Representative(s) of an organization of survivors of sexual assault or sexual harassment in the Maine National Guard.</li> </ul>	<p><b>10 members appointed by the Governor:</b></p> <ul style="list-style-type: none"> <li>• DVEM Commissioner or designee;</li> <li>• DPS Commissioner or designee;</li> <li>• Attorney General or designee;</li> <li>• President of Maine Prosecutors Association or designee;</li> <li>• President of Maine Sheriffs' Association or designee;</li> <li>• Chair of Maine Commission on Domestic and Sexual Abuse or designee;</li> <li>• Executive Director of a statewide coalition against sexual assault;</li> <li>• Advocate for survivors <b>or</b> a survivor of military sexual trauma who participated in the military justice or state court system; and</li> <li>• Representative of an organization that works with survivors of military sexual trauma.</li> </ul>
Compensation	Expenses only	No compensation
Duties	<ol style="list-style-type: none"> <li>1. Review best practices for prevention of and response to sexual assault and sexual harassment within a military environment;</li> <li>2. Review best practices for assisting state and local law enforcement with the prosecution of offenders; and</li> <li>3. Compile a directory of resources available to assist victims of sexual assault or sexual harassment who are current or former Maine National Guard members.</li> </ol>	<ol style="list-style-type: none"> <li>1. Identify best practices in reporting and preventing sexual trauma in the Maine National Guard;</li> <li>2. Identify barriers to reporting sexual trauma in the Maine National Guard;</li> <li>3. Identify state resources available to respond to and prevent sexual trauma within the Maine National Guard;</li> <li>4. Improve communication between the Maine National Guard, state, county, and local law enforcement, and prosecutors regarding investigation and prosecution of criminal acts between members of the Maine National Guard;</li> <li>5. Ensure that relevant violations of the Military Code of Justice are communicated to Maine Authorities;</li> </ol>

<sup>1</sup> <https://www.maine.gov/governor/mills/sites/maine.gov/governor.mills/files/inline-files/3-24-22%20EO.pdf>

		<ol style="list-style-type: none"> <li>6. Propose an amendment to 17-A M.R.S. § 506-A, Harassment, in order for the courts to recognize military orders to cease harassment;</li> <li>7. Identify resources available within the state of Maine to support survivors of sexual assault and harassment and make sure these resources are promptly provided to members of the Maine National Guard;</li> <li>8. Identify a process that will ensure survivors have an opportunity to communicate problems they have experienced during the reporting and investigative process and ensure this input from survivors is incorporated into any Maine National Guard policy changes or actions;</li> <li>9. Improve communication between survivors of military sexual trauma, state prosecutors and state, county, and local law enforcement;</li> <li>10. Identify ways the Department of Defense, Veterans and Emergency Management can increase its involvement in the state's response to sexual trauma in order to better inform its internal policies;</li> <li>11. Identify federal policies and resources, including those of the U.S. Department of Defense and the National Guard Bureau, available to support efforts to respond to and prevent sexual trauma in the Maine National Guard;</li> <li>12. Make recommendations to the Governor as appropriate to enhance the prevention, reporting, and timely prosecution of sexual assault and sexual harassment within the Maine National Guard.</li> </ol>
Report(s)	<ul style="list-style-type: none"> <li>• Annual report by Feb. 15 report to VLA Committee with findings, recommendations and any suggested legislation.</li> <li>• VLA Committee may report out legislation in response to the report.</li> </ul>	<ul style="list-style-type: none"> <li>• Report by Dec. 1, 2022 to Governor</li> <li>• After report, must continue to meet at least annually (but not further reports required)</li> </ul>

**Annual Report from Adjutant General to VLA Committee**

Section B-11 of the bill requires the Adjutant General, in consultation with the statewide coalition against sexual assault, to submit an annual report to the VLA Committee (or its successor) by February 15th containing: (1) data on reported incidents of sexual assault and sexual harassment within the Maine National Guard in each of the preceding 10 years, including outcomes of civilian criminal or military administrative proceedings, if such data and information can be shared under federal and state law without revealing the identity of any victim; (2) a description of the previous year's Maine National Guard sexual assault and sexual harassment prevention trainings; (3) a description of current practices and procedures for preventing and investigating sexual assault and

sexual harassment in the Maine National Guard; and (4) a summary of the previous year's activities of the Advisory Council on Sexual Trauma in the Maine National Guard.

*Proposed Amendments / Technical Issues*

- Rep. Rielly proposed amending the bill to eliminate the requirement that the Adjutant General summarize the advisory council's activities in the annual report (the advisory council is required to submit its own annual report under his proposed amendment) and adds a requirement that the Adjutant General include in this annual report the coalition's recommendations related to the prevention of and response to sexual assault and sexual harassment within the Maine National Guard.
- The Adjutant General raised concern that sharing the data required by Section B-11 with the committee might be problematic and requested language to clarify that the data be summarized "to ensure privacy of victim/survivors and compliance with federal law and regulation."
- Kartika Wright, former SARC, suggested reports of incidents include as little ancillary information as possible to prevent individuals from being identifiable given the small size of the Maine National Guard,

**ADDITIONAL ISSUES RAISED IN TESTIMONY**

The following additional suggestions for preventing and responding to sexual assault and sexual harassment within the Maine National Guard were raised in written and oral testimony at the public hearing on the bill:

1. Create a fund to pay for counseling and other mental health treatment for survivors;
2. Prevent survivors from losing tuition assistance and other benefits as a result of the trauma caused by military sexual assault and sexual harassment.

*Analyst Note:* While there may be other relevant benefits, the Maine National Guard Education Assistance Program in [Title 37-B, Chapter 3](#), Subchapter 7-A of the Maine Revised Statutes provides a 100% tuition benefit at a state postsecondary education institution for members of the National Guard in good standing who have: completed basic training or received a commission; have not yet received a bachelor's degree; and agree to serve in the National Guard for at least one year beyond the end of the term of the tuition benefit. Pursuant to 37-B M.R.S. [§355](#) and [§356](#) these benefits cease and the member may be required to repay them if the member: fails to maintain good academic standing (2.0 out of 4.0 GPA) or complete the term or semester; accumulates 9 or more unexcused absences from unit training assemblies; or fails to attend or complete the entire period of annual National Guard training.

3. Provide for administrative discipline or other consequences of record for commissioned and non-commissioned officers if sexual assault or sexual harassment occurs within units under their command;
4. Provide a method for members of the Maine National Guard to report sexual assault and sexual harassment to someone outside of / external to the Maine National Guard.
5. Require the sharing of climate culture surveys with: (1) members of the unit, to help them understand how their peers view the culture of the unit; (2) with university researchers who can make recommendations on improving the climate of the National Guard; and (3) with the VLA Committee, along with a requirement that the Adjutant General develop an action plan with measurable outcomes to improve the climate each year.
6. Require the Maine National Guard to prepare "readiness report cards" that measure many aspects of unit readiness, including: (1) percentage of soldiers who pass required physical fitness and weapons tests; (2) how many soldiers have completed various types of required trainings; (3) indicators from climate surveys; (4) etc.
7. Develop formal and informal (*i.e.*, outside of the command structure) methods for soldiers to report incidents that lead to a negative culture in the unit.
8. Increase and improve National Guard trainings for the prevention of sexual assault and sexual harassment.

## ADDITIONAL INFORMATION

A memo from Legislative Researcher Kristin Brawn on other states' independent reviews is available [here](#).

## COMMITTEE INFORMATION REQUESTS

*To Adjutant General Farnham:*

1. Is an investigation by local law enforcement required before the National Guard Bureau's Office of Complex Investigations may conduct an independent review of the Maine National Guard's policies, procedures and practices in investigating, prosecuting and adjudicating reports of sexual assault and sexual harassment? If so, would an independent review by the Office of the Attorney General—as proposed in Rep. Rielly's proposed amendment to LD 2029—satisfy this requirement?
2. Relatedly, please provide more information on the statement in Major General Farnham's testimony that the National Guard Bureau, Office of Complex Investigations has committed to work with the Maine National Guard in receiving an independent review.
3. Please help the committee understand Title 10 status and AGR status. How do these statuses affect the procedures for responding to complaints of sexual assault and sexual harassment?
4. Please explain the definitions of and differences between restricted and unrestricted reports.
5. Do victim advocates and SARCs explain to members of the MENG who disclose sexual assault or sexual harassment that there is a risk that, even if they make a restricted report, it may not be possible prevent other members of the MENG from learning about the incident/report?
6. Please explain the different types of discharge—dishonorable, other than honorable, general discharge under honorable circumstances, and honorable—specifically, how can a MENG member obtain each of these discharge types, including examples of the types of misconduct that might give rise to each? How do these discharge statuses affect eligibility for retirement and other benefits?
7. Please explain the confidentiality restrictions on command climate surveys. What "Privacy Act" applies and what provisions of that Act affect the confidentiality of the survey results? Given these restrictions, who is the data shared with and how can the data be used to improve the climate in the MENG?
8. Are you aware of any civilian criminal convictions from sexual assault within the MENG?
9. Are you aware of civilian criminal convictions from sexual assault within other states' National Guards?

*To Attorney General Frey*

1. Whether the Office of the Attorney General is able to conduct the independent review contemplated in Rep. Rielly's proposed amendment to LD 2029 and, if so, what financial or other resources would be required to conduct that review.
2. Whether the Office of the Attorney General is aware of any state court criminal convictions that have arisen out of sexual violence that occurred within or between members of the Maine National Guard or members of the National Guard in other states.

*To Kennebec County District Attorney Maeghan Maloney*

1. Information on how local law enforcement and local district attorneys' offices respond when receiving reports of alleged sexual assaults involving members of the Maine National Guard.
2. Whether DA Maloney is aware of any state court criminal convictions that have arisen out of sexual violence that occurred within or between members of the Maine National Guard or members of the National Guard in other states.

**FISCAL INFORMATION** — Not yet determined (as of March 28, 2022).



**17-A M.R.S. §506-A. Harassment**

1. A person is guilty of harassment if, without reasonable cause:

A. The person engages in any course of conduct with the intent to harass, torment or threaten another person:

(1) After having been notified, in writing or otherwise, not to engage in such conduct by:

(a) Any sheriff, deputy sheriff, constable, police officer or justice of the peace. The notification not to engage in such conduct expires one year from the date of issuance; or

(b) A court in a protective order issued under Title 5, section 4654 or 4655 or Title 19-A, section 4006 or 4007; or

(2) If the person is an adult in the custody or under the supervision of the Department of Corrections, after having been forbidden to engage in such conduct by the Commissioner of Corrections, the chief administrative officer of the facility, the correctional administrator for the region or their designees.

Violation of this paragraph is a Class E crime; or [PL 2009, c. 246, §1 (AMD).]

B. The person violates paragraph A and, at the time of the harassment, the person has 2 or more prior Maine convictions under this section in which the victim was the same person or a member of that victim's immediate family or for engaging in substantially similar conduct to that contained in this paragraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime. [PL 2007, c. 476, §23 (AMD).]

2. [PL 2001, c. 383, §67 (RP); PL 2001, c. 383, §156 (AFF).]

3. For the purposes of this section, "immediate family" means spouse, parent, child, sibling, stepchild and stepparent. [PL 1991, c. 566, §3 (NEW).]

**SECTION HISTORY**

PL 1975, c. 740, §67 (NEW). PL 1981, c. 456, §A59 (AMD). PL 1987, c. 736, §36 (AMD). PL 1991, c. 566, §§2,3 (AMD). PL 1993, c. 475, §§4,5 (AMD). PL 1995, c. 694, §D24 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 267, §§1,2 (AMD). PL 1997, c. 267, §3 (AFF). PL 2001, c. 383, §§66,67 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §23 (AMD). PL 2009, c. 246, §1 (AMD).

**19-A M.R.S. §4013. Maine Commission on Domestic and Sexual Abuse**

There is created the Maine Commission on Domestic and Sexual Abuse, as established by Title 5, section 12004-I, subsection 74-C, referred to in this section as the "commission." [PL 2001, c. 240, §2 (AMD).]

1. **Composition; chair.** The commission is composed as follows.

A. The Governor shall name the chair from among the following members:

(1) One member, appointed by the Governor, who is a representative of the statewide coalition of domestic violence projects;

(1-A) One member, appointed by the Governor, who is a representative of the statewide coalition of sexual assault centers;

(2) One member, appointed by the Governor, who is a representative of the mental health profession;

(3) One member, appointed by the Governor, who is a representative of victims of domestic violence;

(3-A) One member, appointed by the Governor, who is a representative of victims of sexual assault;

(4) Two members, appointed by the Governor, one of whom has experience representing victims of domestic abuse, who are attorneys with experience in domestic relations cases;



- (5) One member, appointed by the Governor, who was a victim of domestic abuse and used the court system;
- (5-A) One member, appointed by the Governor, who was a victim of sexual assault and used the court system;
- (6) One member, appointed by the Governor, who is a district attorney or assistant district attorney;
- (7) One member, appointed by the Governor, who is chief of a municipal police department or the chief's designee;
- (8) One member, appointed by the Governor, who is a county sheriff or the sheriff's designee;
- (8-A) One member, appointed by the Governor, who is the executive director of a statewide coalition to end domestic violence;
- (8-B) One member, appointed by the Governor, who is the executive director of a statewide coalition against sexual assault;
- (8-C) The Attorney General or the Attorney General's designee;
- (8-D) The Chief of the Maine State Police or the chief's designee;
- (9) The Commissioner of Public Safety or the commissioner's designee;
- (9-A) The Commissioner of Health and Human Services or the commissioner's designee;
- (9-C) The Commissioner of Education or the commissioner's designee;
- (9-D) The Commissioner of Labor or the commissioner's designee;
- (9-E) The Commissioner of Corrections or the commissioner's designee;
- (9-F) One member, appointed by the Governor, who has experience working in domestic violence intervention programs;
- (10) Up to 4 members-at-large, appointed by the Governor;
- (11) Up to 4 members, appointed by the Governor, representing underserved populations;
- (12) One member, appointed by the Governor, who is a tribal member and provides services through a tribal program to tribal members who are victims of domestic or sexual violence;
- (13) One member, appointed by the Governor, who is an executive director of a tribal coalition against sexual assault and domestic violence;
- (14) One member, appointed by the Governor, who is chief of a tribal police department or the chief's designee;
- (15) One member, appointed by the Governor, who is a representative of a tribal court; and
- (16) One member, appointed by the Governor, who is a representative of tribal government. [PL 2021, c. 174, §9 (AMD).]

B. The Chief Justice of the Supreme Judicial Court is requested to appoint one person to serve the commission in an advisory capacity. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**2. Terms of office.** The members serve 3-year terms. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**3. Powers and duties.** The commission shall advise and assist the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse. The commission may make recommendations on legislative and policy actions, including training of the various law enforcement officers, prosecutors and judicial officers responsible for enforcing and carrying out the provisions of this chapter, and may undertake research development and program initiatives consistent with this section. The entire commission shall

meet at least 2 times a year. Subcommittees of the commission may meet as necessary. The commission may accept funds from the Federal Government, from a political subdivision of the State or from an individual, foundation or corporation and may expend these funds for purposes that are consistent with this subsection. [PL 2001, c. 240, §2 (AMD).]

**4. Domestic Abuse Homicide Review Panel.** The commission shall establish the Domestic Abuse Homicide Review Panel, referred to in this subsection as the "panel," to review the deaths of persons who are killed by family or household members as defined by section 4002.

A. The chair of the commission shall appoint members of the panel who have experience in providing services to victims of domestic and sexual abuse and shall include at least the following: the Chief Medical Examiner, a physician, a nurse, a law enforcement officer, the Commissioner of Health and Human Services, the Commissioner of Corrections, the Commissioner of Public Safety, a judge as assigned by the Chief Justice of the Supreme Judicial Court, a representative of the Maine Prosecutors Association, an assistant attorney general responsible for the prosecution of homicide cases designated by the Attorney General, an assistant attorney general handling child protection cases designated by the Attorney General, a victim-witness advocate, a mental health service provider, a facilitator of a certified domestic violence intervention program under section 4014 and 3 persons designated by a statewide coalition for family crisis services. Members who are not state officials serve a 2-year term without compensation, except that of those initially appointed by the chair, 1/2 must be appointed for a one-year term. [PL 2021, c. 174, §10 (AMD).]

B. The panel shall recommend to state and local agencies methods of improving the system for protecting persons from domestic and sexual abuse, including modifications of laws, rules, policies and procedures following completion of adjudication. [PL 2001, c. 240, §2 (AMD).]

C. The panel shall collect and compile data related to domestic and sexual abuse, including data relating to deaths resulting from domestic abuse when the victim was pregnant at the time of death. [PL 2005, c. 88, Pt. A, §1 (AMD).]

D. In any case subject to review by the panel, upon oral or written request of the panel, any person that possesses information or records that are necessary and relevant to a homicide review shall as soon as practicable provide the panel with the information and records. Persons disclosing or providing information or records upon the request of the panel are not criminally or civilly liable for disclosing or providing information or records in compliance with this paragraph. [PL 1997, c. 507, §3 (NEW); PL 1997, c. 507, §4 (AFF).]

E. The proceedings and records of the panel are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commission shall disclose conclusions of the review panel upon request, but may not disclose information, records or data that are otherwise classified as confidential. [PL 1997, c. 507, §3 (NEW); PL 1997, c. 507, §4 (AFF).]

The commission shall submit a report on the panel's activities, conclusions and recommendations to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 30, 2002 and biennially thereafter.

[PL 2021, c. 174, §10 (AMD).]

#### SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 507, §§2,3 (AMD). PL 1997, c. 507, §4 (AFF). PL 2001, c. 240, §2 (AMD). PL 2003, c. 689, §B7 (REV). PL 2005, c. 88, §A1 (AMD). PL 2005, c. 397, §A14 (AMD). PL 2009, c. 257, §1 (AMD). PL 2019, c. 188, §1 (AMD). PL 2021, c. 174, §§9, 10 (AMD).